

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16242 of Andrea Cannon, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to increase an existing child development center from 15 to 29 children ages two to six and four staff on the second floor of a structure in an R-5-A District at premises 541 Newcomb Street, S.E., (Square 5985, Lot 818).

HEARING DATE: June 18, 1997
DECISION DATE: July 16, 1997

ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission (ANC) 8C and to owners of property within 200 feet of the site. ANC 8C, which is automatically a party to this application, filed a written statement of issues and concerns, and presented oral testimony in opposition to the application.

By report dated June 10, 1997, ANC 8C indicated that the application should be denied because the structure is too small for the number of children proposed, and because a facility of the size proposed would disrupt the tranquility of the neighborhood. At the public hearing, the ANC representative questioned whether there was sufficient on-site parking, and the manner in which automobiles queue in front of the building when children are picked-up and dropped-off. The ANC representative indicated that the Commission did not have an opportunity to meet with the applicant and requested that the Board delay making a decision until a meeting had taken place. As stated by the representative, such a meeting would afford the community an opportunity to meet with the applicant so that questions and concerns of the residents could be addressed. The Board granted the ANC's request and indicated that it would make a decision on the application at its July 16, 1997 special public meeting.

By report dated July 7, 1997, the ANC indicated that it reconsidered the application at its monthly meeting. The report further stated that a survey was prepared and was being circulated in the community to solicit the sentiments of the residents about the project. After the results of the survey have been tabulated, a recommendation would be made to the Board. The ANC, again, requested a meeting with the applicant prior to July 16, 1997.

The Board finds that great weight cannot be given to the ANC. The ANC met and discussed the project at its June 4, 1997 meeting; however, a quorum was not present. Similarly, at the ANC's July 2, 1997 public meeting, the ANC did not vote on the application. The ANC never made a recommendation concerning the final disposition of the application, and never submitted either the completed surveys or the result of the surveys. Also, the ANC's correspondences did not specifically address how the proposed child development center would adversely affect the community due to traffic, parking, noise, number of students and staff, aesthetics, or other areas of concern.

The Board finds that although the ANC's report cannot be given great weight, the record in the case indicates that an increase in the number of children from 15 to 29 attending the child development center, on the second floor, would not have an adverse effect on the community. By correspondence, the Department of Consumer and Regulatory Affairs (the entity responsible for licensing the facility), indicated that the building has adequate space on the second floor for the 29 children. Further, in reference to the ANC's concern about adequate on-site parking, the Zoning Regulations require one parking space for each four teachers and other employees. The applicant proposes to employ four staff members on the second floor of the building. One parking space is required. The applicant stated that two parking spaces exist on the site.

As directed by 11 DCMR 3324.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR Section 205.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board concludes that the correspondences of ANC 8C do not warrant great weight and that no subsequent report was submitted to the Board for consideration. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of FIVE (5) years.
2. The days and hours of operation shall be Monday through Friday, between 6:00 a.m. and 6:00 p.m.
3. Two on-site parking spaces shall be maintained.

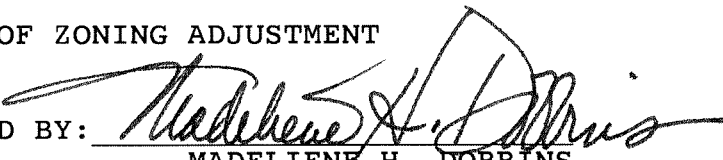
4. All outdoor activities shall take place under staff supervision.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Laura M. Richards, Sheila Cross Reid and John G. Parsons to grant; Susan Morgan Hinton not present not voting, not have heard the case; Betty King, not voting not having heard the case.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS

FINAL DATE OF ORDER: AUG 21 1997

PURSUANT TO D.C. CODE SEC. I-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT




BZA APPLICATION NO. 16242

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 21 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning the matter, and who is listed below:

Andrea Cannon
4750 Tapestry Drive
Fairfax, Virginia 22032

William C. Lewis, Chairperson
Advisory Neighborhood Commission 8C
3125 M.L.K Avenue, S.E.
Washington, D.C. 20032


MADELIENE H. DOBBINS
Director

DATE: AUG 21 1997